

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

**THOMAS R. KOZAK, d/b/a  
JETA COMPANY,**

**Plaintiff,**

**Case No. 04-73463**

**v.**

**HONORABLE DENISE PAGE HOOD**

**THE UNITED STATES DEPARTMENT  
OF NAVY, CRANE DIVISION; EDGE  
CONSTRUCTION COMPANY; SOLOMON  
OBASUYI, President of Edge Construction;  
RLI SURETY, Jointly and Severally,**

**Defendants.**

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**ORDER**

On September 12, 2005, this Court issued an Order stating, “[d]ue to the fact that Defendant United States Department of Navy, Crane Division’s Motion to Dismiss has been granted, this Court no longer has subject matter jurisdiction pursuant to 28 U.S.C. § 1331. If Plaintiff Jeta amends the Complaint to include a Miller Act claim, then this Court would still have subject matter jurisdiction in regards to Plaintiff’s pendent breach of contract claim against Defendant Edge, and Defendant Edge’s counterclaim pursuant to 28 U.S.C. § 1367(a). If Plaintiff Jeta chooses not to amend his Complaint, then pursuant to 28 U.S.C. § 1367(c)(3), this Court declines to exercise supplemental jurisdiction and the remaining claims of Plaintiff will be dismissed without prejudice.”

Plaintiff was given 10 days from the entry of the order to file a claim under the Miller Act. Plaintiff chose not to file a claim under the Miller Act within the time period. Therefore,

Plaintiff's Complaint is dismissed without prejudice.

Accordingly,

IT IS ORDERED that Plaintiff's Complaint [**Docket No. 1, filed September 7, 2004**], is  
DISMISSED without prejudice.

s/ DENISE PAGE HOOD  
DENISE PAGE HOOD  
United States District Judge

DATED: September 30, 2005

s/Denise Page Hood  
Denise Page Hood  
United States District Judge

Dated: September 30, 2005

I hereby certify that a copy of the foregoing document was served upon counsel of record on  
September 30, 2005, by electronic and/or ordinary mail.

s/William F. Lewis  
Case Manager